IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

THURSDAY, THE 13TH DECEMBER 2007 / 22ND AGRAHAYANA 1929

WP(C).No. 36963 of 2007(A)

PETITIONER:

K.D. GEROGE, S/O DANIEL,
PUTHEN VEETTIL, CHOORALLOOR WARD,
PALLICKAL KIZHAKKEKKARA MURI,
THEKKEKKARA VILLAGE.

BY ADV. SRI.R.REJI

RESPONDENTS:
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1. P.D. JOHN, PANAYAPPALLY-
PULIMOOTTIL PARAMBIL, MATTANCHERY,
KOCHI, FROM PUTHEN VEETTIL,
NEAR SUJATHA AUDITORIUM,
PANDIKKUDI, KOCHI.

2. P.D. DAVID, PUTHEN VEETTIL,
NEAR SUJATHA AUDITORIUM, PANDIKKUDI,
KOCHI

3. P.D. CHACKO, S/O DANIEL,
PANAYAPPALLY PULIMOOTTIL PARAMBIL,
MATTANCHERY, KOCHI

4. P.D. ALEXANDER, S/O DANIEL,
PANAYAPPALLY PULIMOOTTIL PARAMBIL,
MATTANCHERY, KOCHI,

5. MARY, BATHEL VEEDU,
CHUNAKKARA VADAKKUM MURI,
CHUNAKKARA VILLAGE.

6. VICTORIA, MANKOODATHIL VEEDU,
VEETIMUKAL MURI,
ETTUMANOOR.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 13/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.KRISHNAN, J.

W.P.(C). NO. 36963 OF 2007

Dated this the 13th day of December, 2007

J U D G M E N T

This writ petition is filed against the order of the Munsiff court, Mavelikkara in I.A. 1344/07 in O.S. 171/04. It is an application for issuance of a Commission. The writ petitioner herein wanted a Commissioner to be appointed to get a plan and report of the property. The case of the plaintiff is to the effect that by virtue of document No. 2040 of 2003 he had been given 1 Are and 21 sq. metres of land with the building constructed by him and therefore he is entitled to the property as an absolute owner. The defendants in their written statement would contend that the said document has never come into effect and it has been revoked and therefore the plaintiff is not entitled to any relief. So the question for determination is regarding the validity of the document No. 2040 of 2003 dated 21.8.03. If the plaintiff is able to establish that the document has been executed and it has been acted upon and that he is in possession of the property and that it cannot be legally revoked, then naturally plaintiff will be entitled to the property. If it is otherwise, the plaintiff would not be entitled to any relief sough for. In order to establish that a Commissioner need not go because the property is not disputed and the identity of the property is also not disputed. If the plaintiff wants to prove that in pursuance of the document

he had enjoyed the property, he can prove it by producing the house tax receipt and revenue receipts which may go a long way in proving his case.

Therefore, I declined to interfere with the order of the court below in refusing to issue a Commission. But, I make it clear that the plaintiff will be at liberty to produce all documentary and oral evidence to prove his contentions so as to establish that he is entitled to the property.

The writ petition is disposed of accordingly.

M.N.KRISHNAN, JUDGE

vps